

**CHAPTER 75-03-14**  
**FAMILY FOSTER CARE HOMES**

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**75-03-14-01. Definitions.** Those definitions set forth in North Dakota Century Code section 50-11-00.1 are applicable to this chapter. In this chapter, unless the context or subject matter requires otherwise:

1. "Adult" means a person twenty-one years of age or older.
2. "Department" means the department of human services.
3. "Home" means family foster home.
4. "Regional center" means the regional human service center.
5. "Supervising agency" means the agency or person having care, custody, and control of the foster child as ordered by a court of competent jurisdiction or the designee of that agency or person.

**History:** Effective December 1, 1984.

**General Authority:** NDCC 50-11-03

**Law Implemented:** NDCC 50-11-00.1

**75-03-14-02. License.**

1. Application for a license must be made in the manner and form prescribed by the department.
2. The foster home licensing process requires completion and documentation of the following items, which must be received by the department in order for the application to be considered complete:
  - a. Application form;
  - b. Compliance with fire and safety requirements;
  - c. Reference letters;

- d. Medical history self-declaration;
  - e. Background check;
  - f. Home visits; and
  - g. Home assessment.
3. The license is issued for a specific number of children, a specified age group of the children, and the sex of the child or children. The duration of the license is not to exceed a one-year period.
  4. The license may be issued with stated limitations, restrictions, and conditions.
  5. The license is not transferable and is valid only for the physical location of the home at the time of issuance, or at another location for a period not to exceed sixty days, provided that the supervising agency performs an onsite visit within seven days of the move, and thereafter approves the temporary location.
  6. After reviewing an individual's application for family foster home licensure, the department may deny a license:
    - a. If the application contains fraudulent information, an untrue representation, or is incomplete;
    - b. If the home is in an unsanitary condition;
    - c. If the home is not properly equipped to provide for the health and safety of the children served; or
    - d. If the applicant or applicants are not in compliance with the regulations prescribed by the department for the operation of a family foster home for children.
  7. In those cases where the home of a Native American family, not subject to the jurisdiction of the state of North Dakota for licensing purposes, is located on a recognized Indian reservation in North Dakota, an affidavit from an agent of the tribal child welfare agency or an appropriate tribal officer must be accepted in lieu of a licensing procedure if the affidavit represents the following:
    - a. An investigation of the home was completed by the tribe's child welfare agency or tribal council; and

- b. The prospective home is in compliance with the standards required by North Dakota Century Code section 50-11-02.

**History:** Effective December 1, 1984; amended effective April 1, 2004.

**General Authority:** NDCC 50-11-03

**Law Implemented:** NDCC 50-11-01, 50-11-02

**75-03-14-03. Minimum physical standards for the home.**

1. The home must be a dwelling, mobile home, housing unit, or apartment occupied by an individual or a single family.
2. The home should have an operational telecommunications device, and must have available to it some means to make immediate contact with authorities in emergencies.
3.
  - a. The home shall have sleeping rooms adequate for the foster care family and the foster children.
  - b. All sleeping rooms must be outside rooms and have ample window space for light and ventilation.
  - c. Basements may be used for sleeping accommodations for children twelve years of age and older. Basement bedrooms must be equipped with the appropriate fire alarms and smoke detectors as recommended by the local fire department or state fire marshal. A basement which shall be used for the care of children must be equipped with more than one exit. One exit may be an accessible window.
4. Exterior doors must be maintained in such a manner which would permit easy exit. Interior doors should be designed to prevent children from being trapped.
5. Every closet door must be one that can be opened from the inside. Any bathroom doors must be designed so that the opening of the locked door can be accomplished from the outside in an emergency.
6. The house and premises must be clean, neat, and free from hazards that jeopardize health and safety. Firearms must be kept in locked storage or trigger locks must be used, and ammunition must be kept separate from firearms.
7. The home must be equipped with adequate light, heat, ventilation, and plumbing for safe and comfortable occupancy. The house and grounds must be in compliance with any applicable state and local zoning requirements.

8. Any source other than an approved municipal water supply must be tested annually for compliance for approved drinking water standards. The sample should be tested and approved by the North Dakota state department of health and the report submitted to the licensing agency.
9. The milk supply must be obtained from an approved source.
10. If required by the department, the home must satisfactorily complete a fire inspection by the local fire inspector or, in the absence of a local fire inspector, the state fire marshal. All deficiencies noted during the inspection must be remedied.
11. The home must be equipped with the approved Underwriters' Laboratories fire extinguishers, smoke detectors, and smoke alarms as recommended by the local fire inspector or state fire marshal. They must be in working condition at all times. In an apartment building, the fire extinguisher, smoke detectors, and smoke alarms must be inside the apartment.

**History:** Effective December 1, 1984; amended effective July 1, 1993; April 1, 2004.

**General Authority:** NDCC 50-11-03

**Law Implemented:** NDCC 50-11-02

#### **75-03-14-04. Qualifications of persons residing in the home.**

1. A person residing in the home, except a foster child or ward of the court, may not have a present condition of substance abuse or emotional instability. No person may smoke, in the foster home, in circumstances which present a hazard to the health of a foster child. All foster parents should be aware of the potential hazards of smoking in the presence of children, particularly infants and children with respiratory or allergic sensitivity. If a condition of substance abuse or emotional instability occurs in a foster home at a time when a foster child is in placement, every effort should be made to keep the placement intact if the resident of the foster home is seeking treatment for the problem. No further placements will be made until successful completion of the treatment has occurred. A resident of a foster home, who has a past condition of substance abuse or emotional instability, should have had no incidents of substance abuse or emotional instability for a period of at least twelve months prior to licensure.
2. A person residing in the home, except a foster child, may not have been the subject of a child abuse or neglect assessment where a services-required decision was made unless the director or foster care supervisor of the regional center, after making appropriate consultation with persons qualified to evaluate the capabilities of the home's resident, documenting criteria used in making the decision, and

imposing any restrictions deemed necessary, approves the issuance of a license; and

- a. The home's resident can demonstrate the successful completion of an appropriate therapy; or
  - b. The home's resident can demonstrate the elimination of an underlying basis precipitating the neglect or abuse.
3. All foster parents, prior to licensing and annually thereafter, must submit a declaration of good health, including all residents of the home, except any foster child, in a manner and form determined by the department. The department may require a physical examination or psychological testing of any resident of the home as deemed necessary. The cost of any physical examinations required pursuant to this subsection is the responsibility of the supervising agency. The cost of any psychological testing required pursuant to this subsection is the responsibility of the department.
  4. Physical disabilities or age of foster parents do not affect licensing of the home provided that the applicant can show that these factors do not significantly inhibit the ability of the foster parents to efficiently carry on the duties required of them.
  5. A person openly and notoriously living with a person of the opposite sex as a married couple without being married to the other person may not be eligible for licensure.

**History:** Effective December 1, 1984; amended effective April 1, 2004; July 1, 2006.

**General Authority:** NDCC 50-11-03

**Law Implemented:** NDCC 50-11-02

#### **75-03-14-04.1. Criminal conviction - Effect on licensure.**

1. A family foster care applicant, family foster care provider, or members of the family foster care home must not have been found guilty of, pled guilty to, or pled no contest to:
  - a. An offense described in North Dakota Century Code chapter 12.1-16, homicide; 12.1-17, assaults - threats - coercion; or 12.1-18, kidnapping; North Dakota Century Code section 12.1-20-03, gross sexual imposition; 12.1-20-04, sexual imposition; 12.1-20-05, corruption or solicitation of minors; 12.1-20-06, sexual abuse of wards; 12.1-20-07, sexual assault; 12.1-22-01, robbery; or 12.1-22-02, burglary, if a class B felony under subdivision b of subsection 2 of that section; North Dakota Century Code chapter 12.1-27.2, sexual performances by children; or North Dakota Century Code section 12.1-29-01,

promoting prostitution; 12.1-29-02, facilitating prostitution; or 12.1-31-05, child procurement; or an offense under the laws of another jurisdiction which requires proof of substantially similar elements as required for conviction under any of the enumerated North Dakota statutes; or

- b. An offense, other than an offense identified in subdivision a, if the department determines that the individual has not been sufficiently rehabilitated.
  - (1) The department will not consider a claim that the individual has been sufficiently rehabilitated until any term of probation, parole, or other form of community corrections or imprisonment, without a subsequent charge or conviction, has elapsed.
  - (2) An offender's completion of a period of five years after final discharge or release from any term of probation, parole, or other form of community corrections or imprisonment, without subsequent charge or conviction, is prima facie evidence of sufficient rehabilitation.
- 2. The department has determined that the offenses enumerated in subdivision a of subsection 1 have a direct bearing on the individual's ability to serve the public in a capacity involving the provision of foster care to children.
- 3. In the case of a misdemeanor simple assault described in North Dakota Century Code section 12.1-17-01, or equivalent conduct in another jurisdiction which requires proof of substantially similar elements as required for conviction, the department may determine that the individual has been sufficiently rehabilitated if fifteen years have elapsed after final discharge or release from any term of probation, parole, or other form of community corrections or imprisonment, without subsequent conviction. The department may not be compelled to make such determination.
- 4. An individual is known to have been found guilty of, pled guilty to, or pled no contest to an offense when it is:
  - a. Acknowledged by the individual; or
  - b. Reported to the agency as a result of a background check.

**History:** Effective April 1, 2004.

**General Authority:** NDCC 50-11-03

**Law Implemented:** NDCC 50-11-02

#### **75-03-14-05. Operation of the home.**

1. The foster parents shall admit to the home, at any reasonable time, public officials, such as fire and building inspectors, for the purpose of determining fire and building safety. For the purposes of this subsection, "any reasonable time" means a time mutually convenient to the foster parents and the public official.
2. The foster parents shall admit to the home, at any reasonable time, personnel of the supervising agency. For the purposes of this subsection, "any reasonable time" means a time mutually convenient to the foster parents and the supervising agency's personnel and any time the supervising agency determines that a foster child's health, safety, or welfare require the admittance.
3. The foster parents must cooperate with the supervising agency in that agency's efforts to develop plans for the child, implement those plans, and meet the needs of the child and the child's family. The foster parents must cooperate with the supervising agency in developing plans for the child to visit with parents or guardian. If the foster parents agree, and it is appropriate, these visits may take place in the foster parents' home. Visits between the foster child and parents or guardian must be arranged within a plan approved by the agency, foster child where appropriate, foster parents, and the foster child's parents or guardian. The foster parents need not admit a foster child's parent, relative, or guardian who has been using alcohol, drugs, or any other intoxicating substance, or who attempts a visit in a manner that is not in accordance with the approved visitation plan.
4. The foster parents may not accept other foster children or special education boarding care children, or accept children for supplemental parental care, as defined in North Dakota Century Code chapter 50-11.1, into their home without the prior approval of the supervising agency. All changes in the number of persons living in the foster home must be immediately reported to the supervising agency.
5. When a foster child is placed in substitute care during the absence of the foster parents, prior approval of the substitute care must be given by the supervising agency. Prior approval is not required for short periods of substitute care such as a portion of one day. A foster child may not be removed from this state without the prior approval of the supervising agency.
6. The foster parents must make opportunities available for a foster child to attend religious ceremonies chosen by the foster child, or that child's parents, within the community in which the foster family resides. The foster parents must respect and not interfere with the religious belief of the child and the child's family.

7. Discipline must be constructive or educational in nature and may include diversion, separation from problem situation, talk with the child about the situation, praise for appropriate behavior, and gentle physical restraint such as holding.
  - a. No child may be kicked, bitten, punched, spanked, shaken, pinched, roughly handled, or struck with an inanimate object by foster parents or any other adult living in the home.
  - b. Authority to discipline may not be delegated to or be accomplished by children.
  - c. Separation, when used as discipline, must be brief and appropriate to a child's age and circumstances, and the young child must be within hearing of an adult in a safe, lighted, well-ventilated room. No child may be isolated in a locked room or closet.
  - d. No child may be physically disciplined for lapses in toilet training.
  - e. Verbal abuse or derogatory remarks about the child, the child's family, race, religion, or cultural background may not be used or permitted.
  - f. No child may be force fed unless medically prescribed and administered under a physician's care.
  - g. Deprivation of means, including food, clothing, shelter, hygiene, and medical care, may not be used as a form of discipline.
8. All information given to the foster parents by the supervising agency or the child's family concerning the foster child must remain confidential and may not be disclosed to any person without prior approval of the supervising agency.
9. All foster care payments must be used to meet the needs of the foster child.

**History:** Effective December 1, 1984; amended effective April 1, 2004.

**General Authority:** NDCC 50-11-03

**Law Implemented:** NDCC 50-11-02

**75-03-14-06. Permanency planning child and family team.**

1. Every county social service board must have a county permanency planning child and family team that meets not less than once each quarter in which the county social service board acts as a supervising agency to any foster child. If the county social service board acts as supervising agency for five or more children in foster care, the county permanency planning child and family team must meet at least once



each month. The permanency planning child and family team will be cochaired by the regional supervisor and the county director or their designee.

2. The supervising agency must invite the child's parents, the foster parents, and the guardian ad litem to participate in the permanency planning child and family team for the foster child unless good cause exists to exclude any person from the planning meeting. The good cause basis must be determined by the supervising agency and the basis for the determination must be made a part of the foster child's file.
3. The foster parents shall participate in the permanency planning child and family team for the child. The foster parents shall cooperate in carrying out the objectives and goals of the plan for the foster child in their care.
4. The foster parents, when requested by the supervising agency or the juvenile court, shall provide requested information concerning the foster child and the child's family.
5. The foster parents and the supervising agency, working in cooperation, must attempt to maintain and improve the relationships between the foster child and the child's family whenever appropriate and possible. In no case may the foster parents attempt to diminish the relationship between the foster child and the child's parents or between supervising agency staff and the foster child.

**History:** Effective December 1, 1984; amended effective April 1, 2004; July 1, 2006.

**General Authority:** NDCC 50-11-03

**Law Implemented:** NDCC 50-11-02

**75-03-14-07. Background checks required.** Background checks are required:

1. Prior to initial foster home licensure or approval;
2. If there is a lapse of license or approved status of the home of more than thirty days; or
3. In the case of a foster parent grandfathered in as of August 1, 1999, or after the initial background check was completed, whenever a licensed or approved foster care parent or other adult living in the home is known to have been involved, charged, or convicted of an offense.

**History:** Effective April 1, 2004.

**General Authority:** NDCC 50-11-03

**Law Implemented:** NDCC 50-11-02

**75-03-14-08. Fingerprints excused.** The department may excuse a person from providing fingerprints if usable prints have not been obtained after two sets of prints have been accepted and rejected. If a person is excused from providing fingerprints, the department may conduct a statewide criminal history record investigation in any state in which the person lived during the eleven years preceding the signed authorization for the background check.

**History:** Effective April 1, 2004.

**General Authority:** NDCC 50-11-03

**Law Implemented:** NDCC 50-11-02